

AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION
U.S.S.N. 10/754,456
Attorney Docket No. 13139-0104 (13721.105006)

REMARKS

After entry of the amendments, Claims 1-4, 7, 13-18, and 22-36 are pending. Claims 1-4, and 14-18 have been amended. Claims 5, 6, 8-12, and 19-21 have been canceled. Support for these amendments is found at least in the specification at: Page 7, line 26; page 8, lines 5-8; page 11, lines 7-9; page 14, lines 10-12; page 15, lines 23-34; and page 16, lines 6-7.

Claims 22-36 have been newly added. Support for new Claims 22-36 is found at least in the specification at: page 7, lines 3-9; page 6, lines 5-7; page 8, lines 26-29; page 8, lines 3-6; page 7, lines 15-18; page 8, lines 24-26; page 20, line 11; and page 14, lines 26-29.

No new matter has been added as a result of these amendments. Entry of these amendments is respectfully requested.

Examiner Interview

Applicant would like to thank Examiner Saunders for the courtesy of a telephone interview on October 25, 2007. In the interview, representatives for Applicant indicated that the claims would be amended to encompass more specific embodiments and pursue more general claims in co-pending application 10/178,046 and that a response and amendment would be filed along with a Request for Continued Examination prior to the response date of November 1, 2007.

Claim Rejection under 35 U.S.C. §112, second paragraph

The Examiner has rejected Claims 16-17 under 35 U.S.C. §112, second paragraph, for lacking antecedent basis. Applicant respectfully traverses the rejection as it applies to amended Claim 1. Claim 1 has been amended to provide antecedent basis for the term "immune response component". Claim 16 has been amended to refer to "binding sites" instead of "epitopes". Withdrawal of this rejection is respectfully requested.

The Examiner has rejected Claims 16-18 under 35 U.S.C. §112, second paragraph, for being indefinite. Applicant has amended Claims 16 and 18 to specify a "population of immunity

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linkers" that have first and second binding sites that differ in specificity and affinity. Withdrawal of this rejection is respectfully requested.

Claim Rejections under 35 U.S.C. §102(b) or (e)

The Examiner has rejected Claims 1-2, 4, 13-15 and 21 under 35 U.S.C. §102(b) or (e) as anticipated by the Low et al. patent (U.S. Patent No. 7,033,594, hereinafter "Low"). Applicant respectfully traverses the rejection as it applies to the amended claims.

Low discloses a ligand-immunogen conjugate. The amended claims are directed to methods of establishing immediate immunity by administering an immunity linker that has an aptamer that binds to a target and an aptamer that binds to an immune response component. Since Low fails to disclose a linker having two aptamer binding sites, Low fails to anticipate the claims. Applicant respectfully requests withdrawal of this rejection.

Claim Rejections under 35 U.S.C. §103(a)

The Examiner has rejected Claims 1 and 18 under 35 U.S.C. §103(a) as obvious over Low in view of the Rhodes patent (U.S. Patent No. 4,940,670) (hereinafter '670).

Low has been discussed above. Rhodes fails to disclose an immunity linker having two aptamer binding sites and therefore fails to make up for the deficiencies of Low. Applicant respectfully submits the claimed invention as amended is non-obvious over the prior art and respectfully requests withdrawal of this rejection.

The Examiner has rejected Claims 1 and 7 under 35 U.S.C. §103(a) as obvious over Low in view of Applicant's own specification.

Low has been discussed above. Since Low fails to disclose a linker having two aptamer binding sites, Low fails to anticipate the claims. Applicant respectfully requests withdrawal of this rejection.

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The Examiner has rejected Claims 1, 2, 13 and 15 under 35 U.S.C. §103(a) as obvious over Krsmanovic et al. (U.S. Patent No. 5,378,815) in view of Low.

Low has been discussed above. Low fails to disclose a linker having two aptamer binding sites. Krsmanovic fails to disclose the use of aptamers in the first binding site and therefore fails to make up for the deficiencies of Low. Absent the teachings of the present specification, one of ordinary skill in the art would not be motivated to combine these references and arrive at the claimed subject matter. Applicant respectfully requests withdrawal of this rejection.

The Examiner has rejected Claims 1-3 and 13-14 under 35 U.S.C. §103(a) as obvious over Marinkovich (U.S. Patent Application Publication No. US 2003/0108555) in view of Low.

Low has been discussed above. Low fails to disclose a linker having two aptamer binding sites. Marinkovich fails to disclose the use of aptamers in the first binding site and therefore fails to make up for the deficiencies of Low. Absent the teachings of the present specification, one of ordinary skill in the art would not be motivated to combine these references and arrive at the claimed subject matter. Applicant respectfully requests withdrawal of this rejection.

The Examiner has rejected Claims 1-4, 13-18 and 21 under 35 U.S.C. §103(a) as obvious over Pouletty (WO 97/37690) in view of Low.

Low has been discussed above. Low fails to disclose a linker having two aptamer binding sites. Pouletty fails to disclose the use of aptamers in the first binding site and therefore fails to make up for the deficiencies of Low. Absent the teachings of the present specification, one of ordinary skill in the art would not be motivated to combine these references and arrive at the claimed subject matter. Applicant respectfully requests withdrawal of this rejection.

The Examiner has rejected Claims 1 and 7 under 35 U.S.C. §103(a) as obvious over Pouletty (WO 97/37690) in view of Low and in further view of Applicant's own specification.

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Low has been discussed above. Low fails to disclose a linker having two aptamer binding sites. Pouletty fails to disclose the use of aptamers in the first binding site and therefore fails to make up for the deficiencies of Low. Absent the teachings of the present specification, one of ordinary skill in the art would not be motivated to combine these references and arrive at the claimed subject matter. Applicant respectfully requests withdrawal of this rejection.

The Examiner has rejected Claims 1-2 and 13-16 under 35 U.S.C. §103(a) as obvious over Cowan (WO01/32207) in view of Low.

Low has been discussed above. Low fails to disclose a linker having two aptamer binding sites. Cowan fails to disclose the use of aptamers in the first binding site and therefore fails to make up for the deficiencies of Low. Absent the teachings of the present specification, one of ordinary skill in the art would not be motivated to combine these references and arrive at the claimed subject matter. Applicant respectfully requests withdrawal of this rejection.

The Examiner has rejected Claim 18 under 35 U.S.C. §103(a) as obvious over Krsmanovic, Marinkovich, Pouletty or Cowan in view of Low and in further view of Rhodes.

Low has been discussed above. Low fails to disclose a linker having two aptamer binding sites. None of Krsmanovic, Marinkovich, Pouletty or Cowan discloses the use of aptamers in the first binding site and therefore all of these references fail to make up for the deficiencies of Low. Rhodes also fails to make up for the deficiencies of Low. Absent the teachings of the present specification, one of ordinary skill in the art would not be motivated to combine these references and arrive at the claimed subject matter. Applicant respectfully requests withdrawal of this rejection.

Double Patenting

The Examiner has provisionally rejected Claims 1-4, 7, 13 and 15-18 on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 8-13 of co-pending U.S. Patent Application No. 11/606,564 (hereinafter '564). Applicant respectfully

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asserts that the claims as amended are no longer overlapping with the claims of Applicant's co-pending '564 application. Withdrawal of this rejection is respectfully requested.

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CONCLUSION

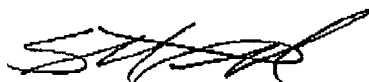
Applicant submits the foregoing as a full and complete response to the Final Office Action mailed on June 1, 2007. Applicant respectfully submits that the present application is in condition for allowance. Such action is hereby courteously solicited.

If the Examiner believes there are other issues that may be resolved by telephone interview, or that there are any informalities remaining in the application that may be corrected by Examiner's Amendment, a telephone call to the undersigned is respectfully requested.

Other than the fee to accompany the petition for a two-month extension of time, no additional fees are believed to be due in connection with this response. However, should the Commissioner determine otherwise, the Applicant hereby authorizes the Commissioner to charge such fees and credit any overpayment to Deposit Account No. 11-0980.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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Date: November 1, 2007